

**IN THE UNITED STATES DISTRICT COURT
OF THE DISTRICT OF COLUMBIA**

FREDDY MARTINEZ
5810 South Kenneth Ave.
Chicago, IL 60629

Plaintiff,

V.

U.S. DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, D.C. 20535

Defendant.

COMPLAINT

1. Plaintiff, FREDDY MARTINEZ, brings this Freedom of Information Act suit to force Defendant U.S. DEPARTMENT OF JUSTICE to produce Office of Legal Counsel's communications in reviewing the Executive Order 13769, titled Protecting the Nation from Foreign Terrorist Entry into the United States, also known as the travel ban.

PARTIES

2. Plaintiff FREDDY MARTINEZ is a member of the media and made the FOIA request at issue in this case.

3. Defendant U.S. DEPARTMENT OF JUSTICE (“DOJ”) is a federal agency subject to the Freedom of Information Act, 5 U.S.C. § 552.

JURISDICTION AND VENUE

4. This case is brought under 5 U.S.C. § 552(a)(4)(B) and presents a federal question conferring jurisdiction on this Court. *See* 28 U.S.C. § 1331.

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

MARCH 6, 2017, FOIA REQUEST

6. On March 6, 2017, MARTINEZ submitted a FOIA request to DOJ for “any and all communication maintained by the OLC in reviewing the Executive Order [13769].” Exhibit A.

7. On April 3, 2017, DOJ acknowledged receipt of the request and assigned the Reference Number FY17-139 to the matter. In the letter, DOJ also claimed that they “will be unable to comply with the statutory deadline for responding to [the] request.” Exhibit B.

8. Between April 2017 and January 2018, MARTINEZ asked DOJ many times for an update regarding the request. Exhibit C.

9. On January 9, 2018, DOJ informed MARTINEZ that his “request is in the complex queue behind other complex request.” DOJ also projected that they “hope to process [the] request by June 1, 2019.” Exhibit C.

10. Since February 2018, MARTINEZ has been seeking a status update on the request on a monthly basis. Exhibit D.

11. DOJ never responded to the requests for status updates.

12. As the date of this filing, DOJ has not issued a determination and has produced no records responsive to the request.

COUNT I – DOJ’S FOIA VIOLATION

13. The above paragraphs are incorporated herein.

14. DOJ is a federal agency and is subject to FOIA.

15. The requested records are not exempt under FOIA.

16. DOJ has refused to produce the requested materials in a timely manner.

WHEREFORE, MARTINEZ asks the Court to:

- i. declare that Defendant has violated FOIA;
- ii. order Defendant to conduct a reasonable search for records and to produce the requested records;
- iii. enjoin Defendant from withholding non-exempt public records under FOIA;
- iv. award MARTINEZ attorneys' fees and costs; and
- v. award such other relief the Court considers appropriate.

Dated: November 22, 2019

RESPECTFULLY SUBMITTED,

/s/ Joshua H. Burday

Attorney for Plaintiff
FREDDY MARTINEZ

Matthew Topic, D.C. Bar No. IL0037
Joshua Burday, D.C. Bar No. IL0042
Merrick Wayne, D.C. Bar No. IL 0058
LOEVY & LOEVY
311 North Aberdeen, 3rd Floor
Chicago, IL 60607
312-243-5900
foia@loevy.com